

REMARKS

The present application was filed on November 20, 2003 with claims 1-19.

In the outstanding Office Action, the Examiner: (i) rejected claims 1-10, 12-19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,085,169 to Walker et al. (hereinafter "Walker") in view of U.S. Patent No. 5,640,569 to Miller et al. (hereinafter "Miller"); and (ii) rejected claim 11 under 35 U.S.C. §103(a) as being unpatentable over Walker and Miller in further view of U.S. Patent No. 6,671,673 to Baseman et al. (hereinafter "Baseman").

In this response, Applicants have amended independent claims 1 and 17-19 and canceled dependent claim 11 without prejudice.

While Applicants believe that the claims, in their form prior to the present amendment, were patentable over the combinations of Walker, Miller and Baseman, Applicants have nonetheless amended the independent claims solely in an effort to move the case through to allowance.

Amended claim 1 now recites a method of managing one or more computing resources, the method comprising the steps of: obtaining data associated with at least one potential demand for use of the one or more computing resources; generating a management model in accordance with at least a portion of the obtained data, wherein the management model is operative to determine an allocation of the one or more computing resources based on combinations of price levels and service levels that may be offered to one or more users of the one or more computing resources so as to attempt to satisfy at least one management goal, wherein the combinations are determined by computing a set of prices and a set of service levels to offer to the one or more users at each one of the prices in the set of prices, and wherein the set of prices and the set of service levels are derived from: (i) levels associated with the one or more computing resources; (ii) historical demand data; and (iii) predicted demand data; evaluating the satisfaction of the management goal for each combination associated with the management model; and determining an optimal configuration of the one or more computing resources, in accordance with the management model, that maximizes the management goal, wherein the optimal configuration is determined by solving the management model using one of a linear programming solver and a nonlinear programming solver. Support for the present amendments may be found through the specification including, for example, at page 7,

lines 1-7, and page 10, lines 3-8. Also, limitations from canceled dependent claim 11 have been added to independent claim 1. Similar amendments have been made to independent claims 17-19.

Regarding the §103(a) rejection based on Walker and Miller, it is asserted that neither reference, alone or in combination, recites each and every limitation of the amended independent claims.

Walker discloses the so-called “Priceline.com” model for the conditional purchase of airline tickets, and is thus silent as to allocation of computing resources in accordance with computing centers. In particular, in the context of a computing center, the present invention realizes that a service offering is not defined only by its price. Rather, the computing center is composed of heterogeneous equipment and user requests are not for a generic “seat” but rather for a user-specific job, which has a user-specific size to it, and therefore a variable processing time. In addition, this processing time depends upon the equipment upon which the computing center chooses, optimally, to allocate to the job. As such, management concepts of the invention have many critical differences as compared to management of passenger airline ticket sales.

This distinction is apparently acknowledged by the Office Action, which thereby attempts to introduce a disparate reference in the form of Miller. While Miller discloses an arbitration system for allocating computer resources, Miller does not determine an allocation of the one or more computing resources based on combinations of price levels and service levels that may be offered to one or more users of the one or more computing resources so as to attempt to satisfy at least one management goal, wherein the combinations are determined by computing a set of prices and a set of service levels to offer to the one or more users at each one of the prices in the set of prices, and wherein the set of prices and the set of service levels are derived from: (i) levels associated with the one or more computing resources; (ii) historical demand data; and (iii) predicted demand data, as recited in the amended independent claims.

Also, neither Walker nor Miller discloses evaluating the satisfaction of the management goal for each combination associated with the management model; and determining an optimal configuration of the one or more computing resources, in accordance with the management model, that maximizes the management goal. That is, even in Miller, which discloses allocation of

computer resources, there is no determination of an optimal configuration of the one or more computing resources, in accordance with the management model, that maximizes the management goal.

Still further, the Office Action acknowledges that neither Walker nor Miller discloses solving the management model (to determine the optimal configuration) using one of a linear programming solver and a nonlinear programming solver. However, the Office Action introduces Baseman for this purpose.

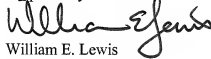
However, Baseman is not available as a §103(a) reference based on §103(c). That is, subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of title 35, shall not preclude patentability under section 103(a) where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Such is the case with respect to the present application and Baseman. Therefore, Baseman is an improper reference for use in a §103(a) rejection.

For at least the above reasons, Applicants assert that independent claims 1 and 17-19 are patentable over Walker, Miller and Baseman, alone or in combination.

Applicants also assert that dependent claims 2-10 and 12-16 are patentable over the references not only for the reasons given above, but also because one or more of said dependent claims recite separately patentable subject matter in their own right.

In view of the above, Applicants believe that claims 1-10 and 12-19 are in condition for allowance, and respectfully request withdrawal of the §103(a) rejections.

Respectfully submitted,



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